

Christine Joyce

From: Don Johnson
Sent: Friday, December 15, 2006 12:25 AM
To: Christine Joyce
Cc: Manager Department
Subject: FW: Acton/ACHCWillow-Central: Extension for Flannery Easement

12/15/06 (14)
*NOTE TO BOS -
MS. FLANNERY HAS SIGNED THE
EXTENSION. IT WILL BE IN THE SIGNATURE
FILE MONDAY.*

Chris:

Some or all of these documents will need to go in tomorrow's packet, along with the materials you received from Nancy Tavernier this afternoon. I will review them with you. I want to place some of them in the Confidential folder.

Don

From: Stephen Anderson
Sent: Thursday, December 14, 2006 10:48 AM
To: Nancy Tavernier; Don Johnson; John Murray
Subject: Acton/ACHCWillow-Central: Extension for Flannery Easement

<<MOA-First-Amendment.doc>> <<RE: Acton Willow-Central redlined RFP-to-Developer 8-19-06.doc>>

Hi Don:

Attached is the extension needed from Flannery on the easement since ACHC will not be taking title to the property before January 2007.

Nancy: Can you get Flannery's signature and ACHC's signature?

Don: Can you have the Selectmen sign this Monday night?

Steve

Stephen D. Anderson
ANDERSON & KREIGER LLP
43 Thorndike Street
Cambridge MA 02141-1764
Phone: 617-252-6575
Mobile: 617-510-1159
Fax: 617-374-7506
e-mail: sanderson@andersonkreiger.com

www.andersonkreiger.com

Anderson & Kreiger LLP will be moving on December 29 to new offices. My new contact information will be:

One Canal Park, Suite 200
Cambridge MA 02141

12/15/2006

Direct Dial: 617-621-6510

Direct Fax: 617-621-6610

Main number: 617-621-6500

Main Fax: 617-621-6501

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FIRST AMENDMENT TO MEMORANDUM OF AGREEMENT

This First Amendment to Memorandum of Agreement is made this ____ day of _____, 2006, by **Cecilia Joan Flannery**, of 544 Massachusetts Avenue, Acton, Massachusetts 01720 (AGrantor@ or "Flannery") and the **Acton Community Housing Corporation**, a Massachusetts nonprofit housing corporation established pursuant to Chapter 143 of the Acts of 1996, with a principal place of business at Acton Town Hall, 472 Main Street, Acton, Massachusetts 01720 (AGrantee@ or "ACHC").

WHEREAS, the Grantor and Grantee entered into a Memorandum of Agreement as of the 3rd day of April, 2006, copy attached.

WHEREAS, the Grantor and Grantee desire to extend the deadline in paragraph 1 of the Memorandum of Agreement.

NOW THEREFORE, for adequate consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee agree as follows:

Paragraph 1 of the Memorandum of Agreement is amended to read as follows: "Upon written request from ACHC made within **eighteen** months after the 2006 Acton Annual Town Meeting has voted to approve Article 29 substantially as set forth above, Flannery shall grant to ACHC an Easement substantially in the form attached hereto as Exhibit A." (Amendment bolded.)

WITNESS the execution hereof under seal the ____ day of _____, 2006.

GRANTOR:

Cecilia Joan Flannery

COMMONWEALTH OF MASSACHUSETTS)

)ss:

COUNTY OF MIDDLESEX)

On the ____ day of _____, 2006, before me, the undersigned Notary Public, personally appeared, Cecilia Joan Flannery, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding document, and acknowledged to me that she signed it voluntarily and for its stated purpose, and as such was authorized to execute this instrument.

(Official signature and seal of notary)

Notary Public: _____

My Commission Expires: _____

GRANTEE:

Acton Community Housing Corporation
By: Nancy Tavernier
Its: Duly Authorized Chair

COMMONWEALTH OF MASSACHUSETTS)

COUNTY OF MIDDLESEX)ss:
)

On the ____ day of _____, 2006, before me, the undersigned Notary Public, personally appeared, Nancy Tavernier, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding document, and acknowledged to me that she signed it voluntarily for its stated purpose as the authorized official of the Acton Community Housing Corporation and, as such, was authorized to execute this instrument.

(Official signature and seal of notary)
Notary Public: _____
My Commission Expires: _____

Approval of the Acton Board of Selectmen

Pursuant to Section 2(d) of Chapter 143 of the Acts of 1996, the Acton Board of Selectmen, at a meeting duly called for the purpose on _____, 2006, voted to approve and does hereby approve the prospective acquisition by the Acton Community Housing Corporation of the Easement described herein.

Acton Board of Selectmen,

Walter M. Foster, Chairman

F. Dore' Hunter

Lauren S. Rosenzweig

Peter K. Ashton

Andrew D. Magee

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF MIDDLESEX

On this _____ day of _____, 2006, before me, the undersigned Notary Public, personally appeared each of the foregoing named members of the Board of Selectmen of the Town of Acton , proved to me through satisfactory evidence of identification, which was: examination of _____, to be the person whose name is signed on the preceding document, and acknowledged to me that he/she signed it voluntarily for its stated purpose as the foregoing named members of the Board of Selectmen of the Town of Acton, a municipal corporation.

(Official signature and seal of notary)

Notary Public: _____

My Commission Expires: _____

EASEMENT

This Easement is made this ____ day of _____, 2006, by **Cecelia Joan Flannery**, of 544 Massachusetts Avenue, Acton, Massachusetts 01720 (AGrantor@ or "Flannery") and the **Acton Community Housing Corporation**, a Massachusetts nonprofit housing corporation established pursuant to Chapter 143 of the Acts of 1996, with a principal place of business at Acton Town Hall, 472 Main Street, Acton, Massachusetts 01720 (AGrantee@ or "ACHC").

WHEREAS, Grantor is the owner of the real property by deed of Edward W. and Cecelia Joan Flannery, dated January 28, 2000 and recorded with the Middlesex County (South District) Registry of Deeds in Book 31111, Page 116 (the "Grantor's Land");

WHEREAS, Grantee is the owner of real property known and numbered as 28 Willow Street and 214 Central Street, Acton, MA, which was taken by the Town of Acton for nonpayment of taxes in Land Court Case Nos. 112320 T.L. and 112319 T.L. (Judgments dated May 4, 1998) and which was conveyed by the Town of Acton to the Grantee by Deed dated _____, 2006, and recorded with said Deeds in Book _____, Page _____ (the "Grantee's Land"); and

WHEREAS, Grantor and Grantee intend by this document to create easements for driveway, parking and access purposes as set forth herein;

NOW THEREFORE, for one dollar (\$1.00) and other adequate non-monetary consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby grants to Grantee and its successors and assigns the perpetual right and easement on, under, over and across Easement Area identified as the "Proposed Access & Utility Easement" (the "Easement Area") as shown on a plan of land entitled "Easement Plan of Land in Acton, Massachusetts, Owned by Cecelia Joan Flannery, 206 Central Street," Scale: 1" = 10', dated March ___, 2006, and recorded herewith and to which plan specific reference is made for a more particular description of said Easement Area, to (a) locate, relocate, construct, reconstruct, install, operate, maintain, access on foot or by motor vehicle, inspect, repair, replace, alter, and/or remove a paved driveway and associated drainage and underground utilities, and (b) pass and re-pass by foot and by vehicle for access to and egress from the Grantee's Land and buildings and improvements now or hereafter situated on Grantee's Land to and from the abutting public way. The Grantee shall have the exclusive right to park a vehicle or vehicles on the driveway within the Easement Area and to use the surface of the Easement Area; otherwise, the Grantor reserves the right to use the Easement Area in a manner that does not interfere with the Grantee's reasonable use and enjoyment thereof.

2. This Easement is not intended to permit Grantee or any employees, tenants, guests, or invitees thereof, or any employees, guests, or invitees of such tenants, to enter upon any portion of Grantor's Land other than on the Easement Area created by this Easement.

3. Within one year after the grant of this Easement, the Grantee shall install and thereafter perpetually maintain landscaping within the Easement Area as shown on the Landscape Plan depicted on a plan of land entitled "Site Plan of Land in Acton, Massachusetts,

Prepared for the Town of Acton, 28 Willow Street & 214 Central Street," dated March __, 2006.

4. The terms of this Easement, including but not limited to the rights, privileges, obligations and conditions set forth or referenced herein, shall run with the Grantor's Land and therefore bind the heirs, successors and assigns of Grantor for the benefit of Grantee and any successor owner of Grantee's Land.

5. This Easement shall be governed by the laws of the Commonwealth of Massachusetts. The provisions of this Easement shall be binding upon all the parties having or acquiring any right, title or interest in any of Grantor's Land and shall be for the benefit of each owner and successor owner of Grantee's Land.

WITNESS the execution hereof under seal the 3 day of April, 2006.

GRANTOR:

Cecelia Joan Flannery
Cecelia Joan Flannery

COMMONWEALTH OF MASSACHUSETTS)

)ss:
)

COUNTY OF MIDDLESEX

On the 3rd day of April, 2006, before me, the undersigned Notary Public, personally appeared, Cecelia Joan Flannery, proved to me through satisfactory evidence of identification, which were license, to be the person whose name is signed on the preceding document, and acknowledged to me that she signed it voluntarily and for its stated purpose, and as such was authorized to execute this instrument.



(Official signature and seal of notary)

Notary Public: Susan Carol Bricker
My Commission Expires: Sept 21, 2012

GRANTEE:

Nancy Tavernier
Acton Community Housing Corporation
By: Nancy Tavernier
Its: Duly Authorized Chair

COMMONWEALTH OF MASSACHUSETTS)

COUNTY OF MIDDLESEX)

)ss:

On the 3 day of April, 2006, before me, the undersigned Notary Public, personally appeared, Nancy Tavernier, proved to me through satisfactory evidence of identification, which were known to me, to be the person whose name is signed on the preceding document, and acknowledged to me that she signed it voluntarily for its stated purpose as the authorized official of the Acton Community Housing Corporation and, as such, was authorized to execute this instrument.

Chris M. M. M.
(Official signature and seal of notary)
Notary Public: _____
My Commission Expires: Sept 24, 2008

Approval of the Acton Board of Selectmen

Pursuant to Section 2(d) of Chapter 143 of the Acts of 1996, the Acton Board of Selectmen, at a meeting duly called for the purpose on 4/3/06, 2006, voted to approve and does hereby approve the acquisition by the Acton Community Housing Corporation of the foregoing Easement.

Acton Board of Selectmen,

Peter K. Ashton
Peter K. Ashton, Chairman

F. Dore Hunter
F. Dore Hunter

Lauren S. Rosenzweig
Lauren S. Rosenzweig

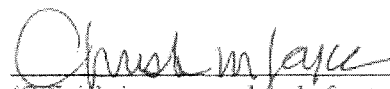
Walter M. Foster
Walter M. Foster

Andrew D. Magee
Andrew D. Magee

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF MIDDLESEX

On this 3 day of April, 2006, before me, the undersigned Notary Public, personally appeared each of the foregoing named members of the Board of Selectmen of the Town of Acton, proved to me through satisfactory evidence of identification, which was: examination of Personally known to me, to be the person whose name is

signed on the preceding document, and acknowledged to me that he/she signed it voluntarily for its stated purpose as the foregoing named members of the Board of Selectmen of the Town of Acton, a municipal corporation.


(Official signature and seal of notary)

Notary Public:

My Commission Expires: Sept 26, 2008